

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 48, Winter 2008

Reasonable Accommodation Saves Housing

Since their mother died 20 years ago, Erma Johnson, who is disabled, has depended on her sister Joyce Thomas for her daily care. In turn, Thomas, who works part-time as a home health care aide, has depended on her sister for financial contributions toward household expenses.

In July 2006, the sisters moved into an apartment at Huntington Meadows on Decker Lane. Their main sources of income are Johnson's Supplemental Security Income and Social Security Disability Insurance checks, which she receives on the first and the third of the month respectively. Even though rent was due on the first, the apartment manager was sympathetic to the sisters' situation and allowed them to make partial payments or pay after the deadline without charging them late fees.

When a new company took over management of the property, Thomas and Johnson, who continued to pay their rent late, quickly accrued more than \$1,600 in late fees and unpaid rent. After receiving a lockout notice and a notice to vacate — the first step in the eviction process — Thomas contacted the Austin Tenants' Council for assistance.

ATC fair housing specialist Linda Aleman advocated for the sisters, ensuring that Johnson and Thomas were not evicted from their home. Aleman sent a request for reasonable accommodation to Pinnacle Realty Management asking to change the rent due date from the first to the fifth to correspond with the date on which Johnson receives her SSI and SSDI checks. The company agreed to waive late fees for two months, accept rental assistance for the balance, and change the rental due date for the entire property to the fifth of the month to accommodate other tenants who were having similar difficulties paying their rent on time. Meals on Wheels and More provided nearly \$700 to bring the sisters current on their rent. Since then, Thomas and Johnson have been able to pay their rent on time and in full.

ATC recognizes Pinnacle Realty Management for its willingness to accommodate all of the people with disabilities living at the Huntington Meadows and thanks Meals on Wheels and More for its generous donation that kept these sisters in their home.

Case Updates

In all settled cases reported here, the respondent, unless otherwise noted, denies the allegations of discrimination made by the complainant and the parties have agreed to resolve the case prior to a trial on the merits.

Coddington v. Southfork Apartments

For nearly four years, William Coddington, who is deaf and visually impaired, put up with a structural defect that allowed water to leak through the walls of his apartment. He repeatedly asked the manager to make repairs; however, she did nothing but make promises to fix the problem.

In May 2007 after heavy rains caused several inches of flooding throughout his home, Coddington decided that enough was enough. He was tired of the manager ignoring his repair requests and believed her lack of attention was due to his disabilities. ATC fair housing specialist Robert Hood helped Coddington file a discrimination complaint with the City of Austin Equal Employment/Fair Housing Office (EE/FHO).

In a conciliation agreement negotiated by the EE/FHO, the manager agreed to transfer Coddington to another unit and paid his moving expenses and utility transfer fee.

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At a ceremony on January 15 in San Antonio, Kim Kendrick (right), Assistant Secretary for Fair Housing and Equal Opportunity at the Department of Housing and Urban Development, presented a \$274,707 check to ATC executive director Katherine Stark. One of only three HUD fair housing grantees in Texas, the ATC Fair Housing Program will use these funds to investigate allegations of housing discrimination and help complainants enforce their rights under the Fair Housing Act.

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Court Rules Against Housing Authority

In a recent case, the federal court in Brownsville addressed a fair housing familial status issue not previously addressed by any court. In *Ortega v. Housing Authority of City of Brownsville*, the plaintiff challenged the Housing Authority's policy denying participation in the Section 8 housing voucher program to grandparents who have custody of grandchildren but no court order of custody over the grandchildren. When the Housing Authority refused to issue Mr. Ortega a Section 8 housing voucher unless he obtained a court order of guardianship over his grandson who has lived with him for years with a power of attorney from the parents, Mr. Ortega filed suit asserting that the policy discriminated on the basis of familial status in violation of the Fair Housing Act.

The Fair Housing Act protects from housing discrimination not only children living with parents or legal guardians but also

children living with the "designee" of the parent or legal guardian with the written permission of the parent or legal guardian. The court held that the Housing Authority's policy of requiring legal guardianship for minors violates the Fair Housing Act.

This is a correct interpretation of the law, because the Housing Authority's policy on its face discriminated against children living with grandparents with the written permission of the parent. The court correctly recognized that the familial status protection sweeps much more broadly to encompass children living with grandparents and other persons with written permission of the parent. The court enjoined the Housing Authority from further enforcing that requirement in its Section 8 Housing Voucher Program.

Mr. Ortega is represented by Fred Fuchs and Julie Balovich of Texas RioGrande Legal Aid and Renea Hicks, a private practitioner in Austin.

Count on It!

The Austin Tenants' Council would like to express its continued appreciation for the generosity shown by Jerry Icenogle, who established a 20-year charitable trust on behalf of the Austin Tenants' Council in 2002. These funds are extremely important as ATC, along with most nonprofit social service agencies, has faced reductions in funding. "The money is a godsend because we can count on it every year," ATC executive director Kathy Stark says. The trust provides invaluable resources to benefit ATC's tenant-landlord and fair housing programs.

To support ATC's mission to educate and promote the enforcement of housing rights in our community, visit www.housing-rights.org and click on "get involved."

We thank **David Romero** for his generous contribution in support of ATC's programs and services.

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Isaacks v. Broadstone Crossing

Amie Isaacks was in the middle of one-year lease contract when she resolved to get her life back on track. She broke her lease to enter a 90-day residential treatment program, which she completed successfully in October 2007. Finding new housing was difficult because the landlord had turned over Isaacks' account to a collections agency, stating that she owed the apartment complex \$7,000.

Under the Fair Housing Act, drug addiction is considered a disability when it poses a substantial limitation on one or more major life activities; FHA protections do not cover individuals who are currently using illegal drugs. ATC fair housing spe-

cialist Robert Hood helped Isaacks submit a request for reasonable accommodation to her former landlord, asking for a release from the lease contract without penalty and a neutral reference. The landlord denied the request.

Isaacks then filed a complaint with the EE/FHO. In a conciliation agreement negotiated by the EE/FHO, the landlord agreed to the terms originally suggested in the request for reasonable accommodation.

Coleman v. Galewood Garden

After she and her daughter both received non-renewal of the lease notices, Winnell Coleman began to wonder about the manager's intentions. Coleman, who is African-American, believed that race factored in the manager's decision to ask them to leave.

Fair housing testing conducted by the ATC Fair Housing Program appeared to support Coleman's suspicions of racial discrimination. During the site visit, the manager told the comparison (Caucasian) tester about a rent special and offered to hold an apartment for her. The manager did not discuss these options with the protected (Black) tester.

In a conciliation agreement negotiated by the EE/FHO, the manager agreed to extend Coleman's lease for six months.

Fair housing testing and investigations conducted by the ATC Fair Housing Program are funded by HUD. If you need information about your rights under fair housing laws, contact the ATC Fair Housing Program at 474-7007.

La Corte Dictamina Contra Autoridad de Viviendas

En un caso reciente, la corte federal en Brownsville trató un tema de vivienda justa relativo a situación familiar, que no había sido tocado previamente por ninguna corte. En el caso Ortega versus Autoridad de Viviendas de la Ciudad de Brownsville, el demandante desafió la política de la Autoridad de Viviendas que negaba participar en el programa de vales de vivienda Sección 8 a abuelos que tienen nietos a su cargo pero carecen de una orden judicial de custodia. Cuando la Autoridad de Viviendas se negó a emitir al Sr. Ortega un vale de vivienda Sección 8 a menos que obtuviera la custodia legal de su nieto, que vivía con él durante años

con un poder notarial extendido por los padres, el Sr. Ortega les entabló juicio, denunciando que esta norma discriminaba en base a situación familiar, en violación del Acta de Vivienda Justa.

El Acta de Vivienda Justa protege de discriminación en la vivienda no solo a los niños que viven con sus padres o tutores legales, sino también a niños que viven con el “designado” por padres o tutores, con permiso escrito de los padres o tutores legales. La corte dictaminó que la política de la Autoridad de Viviendas de requerir custodia legal de menores estaba en violación del Acta de Vivienda Justa.

Esta es la interpretación correcta de la ley, porque la política de la Autoridad de Viviendas discriminaba a niños que viven con sus abuelos con permiso escrito de los padres. La corte reconoció correctamente que la protección a la situación familiar es más amplia, abarcando a los niños que viven con sus abuelos u otras personas con permiso escrito de los padres. La corte ordenó a la Autoridad de Viviendas no seguir exigiendo ese requisito en su Programa de Vales de Vivienda Sección 8.

El Sr. Ortega está representado por Fred Fuchs y Julie Balovich de Texas RioGrande Legal Aid, y Renea Hicks, abogado particular en Austin.

Ajustes Razonables Pueden Salvar la Vivienda

Desde que murió su madre hace 20 años, Erma Johnson, que es discapacitada, ha dependido de su hermana Joyce Thomas para su cuidado diario. A su vez, Thomas, que trabaja a medio tiempo como asistente de salud a domicilio, depende de su hermana para que le ayude económicamente con los gastos de la casa.

En julio del 2006, las hermanas se mudaron a un apartamento de Huntington Meadows, en Decker Lane. Su fuente principal de ingresos son los cheques que recibe Johnson por Ingresos de Seguridad Suplementarios (SSI) y Seguro por Discapacidad de Seguridad Social (SSDI), los que recibe el primero y el tres de cada mes respectivamente. Aunque la renta vencía el primero, el administrador de las unidades fue comprensivo con la situación de las hermanas y les permitió hacer pagos parciales o pagar después del plazo sin cobrarles recargo.

Cuando la administración de la propiedad pasó a una nueva compañía, Thomas y Johnson, que continuaban pagando la renta con demora, acumularon rápidamente más de \$1,600 en recargos por atraso y renta impaga. Después de recibir un aviso de cambio de cerradura y otro para desocupar la unidad—el primer paso en el proceso de desalojo—Thomas pidió ayuda al Consejo de Inquilinos de Austin (ATC).

Linda Aleman, especialista en Vivienda Justa de ATC, defendió a las hermanas, logrando que Thomas y Johnson no fueran desalojadas de su hogar. Aleman envió un pedido de ‘ajustes razonables’ a la firma Pinnacle Realty Management, solicitando cambiaran la fecha de pago de la renta del primero al cinco del mes para ajustarla a la

La compañía ... cambió la fecha de pago de renta de todas las unidades al cinco del mes para acomodar a otros inquilinos que tenían dificultades similares para pagar la renta puntualmente.

fecha en que Johnson recibe los cheques de SSI y SSDI. La compañía aceptó perdonar los recargos por dos meses, aceptó asistencia en la renta por el saldo, y cambió la fecha de pago de renta de todas las unidades al cinco del mes para acomodar a otros inquilinos que tenían dificultades similares para pagar la renta puntualmente. La organización Meals on Wheels and More donó casi \$700 para ayudar a las hermanas con la renta. Desde entonces, Thomas y Johnson han podido pagar la renta en su totalidad y puntualmente.

ATC reconoce a Pinnacle Realty Management por su buena voluntad para acomodar a las personas con discapacidad que viven en Huntington Meadows, y a Meals on Wheels and More por la generosa donación para que estas hermanas no perdieran su hogar.

Austin Tenants' Council
1640-B East 2nd Street, Suite 150
Austin, TX 78702

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This service is certified as a lawyer referral service as required by the State of Texas under Chapter 952, Occupations Code.

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Fair Housing Program / Programa de Vivienda Justa This program helps any person in the Austin metropolitan area who has been discriminated against in the rental, sale, financing, or appraisal of housing. FHP investigates complaints and coordinates legal services to assist victims of discrimination when their rights under state and federal fair housing laws have been violated. Este programa ayuda a cualquier persona en el area metropolitana de Austin que se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El FHP investiga las quejas y coordina servicios legales para las victimas de discriminación cuando sus derechos están violados bajo las leyes estatales y federales de vivienda justa. Call / llame al 474-7007.

Telephone Counseling / Consejos por Telefono Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejos legales. Call / llame al 474-1961.

In-House Counseling / Consejos en la Oficina Counseling information and materials are provided to clients in need of more in-depth assistance. Se provee información y materiales a los clientes que necesitan mayor información. Call for an appointment / llame para una cita al 474-7007.

Crisis Intervention / Intervencion Crisis Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Consejeros median en nombre del inquilino a resolver una emergencia que amenass su vivienda. Call / llame al 474-1961.

Rental Repair Assistance / Ayuda con Reparaciones en su Vivenda The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajo ingreso da fuerza a sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7007.

Lease Forms / Contratos ATC sells lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. ATC vende paquetes de contratos y folletos, por una cuota nominal, describiendo los derechos y las responsabilidades del propietario y del inquilino. Call for more information / llame para mayor información al 474-7007.

Austin Tenants' Council Staff
Linda Aleman Fair Housing Program Specialist
Christine Castilleja Intake Specialist
Mary Delgado Housing Specialist
Melissa Fernandez Intake Specialist
Cruz Garcia Housing Specialist
Steve Guerra Housing Specialist
Robert Hood Fair Housing Program Specialist
Rebecca Mojica Housing Specialist
Morgan Morrison Fair Housing Testing Coordinator
Lucia Perez-Salinas Fair Housing Program Specialist
Sam Persley Program Specialist III
Nekesha Phoenix Fair Housing Program Director
Bruce Rodenborn Technical Support
Katherine Stark Executive Director